

# IOWA DEPARTMENT OF NATURAL RESOURCES

## ADMINISTRATIVE CONSENT ORDER

<b>IN THE MATTER OF:</b>  <b>DEXTER LAUNDRY, INC.</b>  <b>Fairfield, Iowa</b>	<b>ADMINISTRATIVE CONSENT ORDER NO. 2008-WW-10</b>
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**TO: Frank D. Fritz, Chief Financial  
Officer, Secretary and Treasurer  
Dexter Laundry, Inc.,  
2211 West Grimes Street  
P.O. Box 7901  
Fairfield, IA 52556**

**Patrick D. Albregts, President & CEO  
Dexter Laundry, Inc.,  
2211 West Grimes Street  
P.O. Box 7901  
Fairfield, IA 52556**

### I. SUMMARY

This administrative consent order (order) is entered into between Dexter Laundry, Inc. (Dexter) and the Iowa Department of Natural Resources (Department). The parties hereby agree to the issuance of this order. Dexter hereby agrees to comply with the requirements in this order for addressing violations of its treatment agreement with the City of Fairfield (City) and to pay a penalty as set forth in this order. In the interest of avoiding litigation, the parties have agreed to the following provisions.

Any questions or response regarding this order should be directed to:

**Relating to Technical Requirements:**

Terry Jones  
Environmental Specialist Senior  
IDNR Field Office #6  
1023 West Madison  
Washington, Iowa 52353  
Ph: 319/653-2135

**Relating to Legal Matters**

Diana L. Hansen  
Attorney at Law  
Iowa Department of Natural Resources  
Henry A. Wallace Building, 502 E. 9<sup>th</sup> St.  
Des Moines, Iowa 50319-0034  
Ph: 515/281-6267

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**II. JURISDICTION**

The parties hereby agree that this order is issued pursuant to Iowa Code section 455B.175(1), which authorizes the Director to issue any order necessary to secure compliance with or prevent a violation of Iowa Code chapter 455B, Division III, Part I, and the rules promulgated or permits issued pursuant thereto, and Iowa Code section 455B.109 and 567 Iowa Administrative Code (IAC) chapter 10, which authorize the Director to assess administrative penalties.

**III. STATEMENT OF FACTS**

The Department and Dexter hereby agree to the following statement of facts:

1. Dexter Laundry, Inc., a subsidiary of Dexter Apache Holdings, Inc., is located at 2211 W. Grimes Avenue in Fairfield, Iowa. Dexter produces commercial washers and dryers and discharges process wastewater to the City's wastewater treatment facility (WWTF) at this location. Dexter is subject to the federal metal finishing categorical standards in 40 CFR Part 433 and is considered a major contributing industry to the City because of its categorical designation. The City and Dexter entered into a signed treatment agreement on January 26, 1998 that allows for the discharge of process wastewater from Dexter to the City's collection system. The monitoring requirements and effluent limitations for Dexter are included in the treatment agreement and in the City's NPDES permit.

The treatment agreement lists average and maximum concentration and mass limits for cadmium, chrome, copper, lead, zinc, nickel, cyanide, and silver. Certification statements were signed by representatives of the City and Dexter. Dexter's statement provided in part "I am the duly authorized representative for the major industrial contributor and state that the proposed discharge to the system receiving waste identified above shall not exceed the quantities listed on page two of this form after effective date January 26, 1998."

The City's statement provided "I am the duly authorized representative for the facility owner named above and state that the owner agrees to accept the discharge described on page two for the contractor identified above and accepts responsibility for providing treatment of the volume and quantities described on the reverse in accordance with the provisions of Chapter 455B, Code of Iowa, and the rules of the Department of Natural Resources. This agreement is conditioned upon the industrial contributor complying with all applicable standards and requirements of the Department of Natural Resources and the United States Environmental Protection Agency. This agreement is entered for the purpose of identifying pollutants contributed and limiting the quantity contributed, and shall not otherwise be construed to affect local ordinances, sewer service agreements or fee systems entered into between the parties."

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"This agreement may be modified or terminated by the owner of the disposal system if additional pollutants or additional quantities or volumes of pollutants are contributed other than identified on the reverse, or because of any condition that requires either a temporary or permanent reduction or elimination of the accepted contribution."

2. An inspection of the Dexter pretreatment operation on May 21, 2001 found violations of the oil and grease, chromium, nickel and zinc treatment agreement limits. On June 20, 2001 a Notice of Violation letter and inspection report were sent to the company notifying it of the violations. Dexter was required to ensure consistent compliance with the treatment agreement limits. The City was sent a copy of the letter and inspection report issued to Dexter.

3. On July 17, 2002 an inspector from the Department's Field Office No. 6 inspected the City's WWTF. The August 21, 2002 inspection report noted violations by Dexter of pretreatment limits for chromium, nickel, zinc, oil and grease, and pH for the period of June 2001 through May 2002. The inspection report noted that Dexter had numerous violations of the pretreatment limits in the past. The report stated that it was important for the City to review Dexter's monthly operation report data to ensure compliance with permit limits. The main requirement of the inspection report was that the City ensure compliance from industrial contributors as specified in the City's NPDES permit. The Notice of Violation cover letter to the report required the City to send the field office a written response explaining the actions the City would take to gain compliance by Dexter with the permit limits.

4. By a letter dated October 22, 2002 to Field Office No. 6, the City proposed an increase in effluent limits for Dexter. The change was requested since the violations by Dexter did not result in effluent limit violations at the City's WWTF. The City's letter stated that a report would be forwarded to the Department's wastewater permits section documenting that no violations occurred at the City's plant due to the Dexter exceedances. The City sent the Department's wastewater permits section a letter dated November 6, 2002 requesting a change in the limits for Dexter.

5. By a letter dated November 13, 2002, the Department notified the City that the requested change in limits was denied. The letter provided in part. "Certain wastewater discharges by Dexter Co. are subject to federal categorical pretreatment standards, specifically all process wastewater from the parts washer systems. These federal pretreatment standards are specified in 40 CFR part 433.15 and are the highest concentrations Dexter is legally allowed to discharge. The current treatment agreement between Dexter and the city (effective date January 26, 1998) contains limits for metals, cyanide and total toxic organics that are identical to these federal standards. The treatment agreement cannot contain limits less stringent than the applicable federal and state standards and a new agreement with higher limits would not be approved." The Department's letter advised that continued violations of the treatment agreement limits could result in enforcement action.

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6. Field Office No. 6 conducted a wastewater inspection of Dexter's pretreatment facilities on December 16, 2003. The December 23, 2003 cover letter and the inspection report noted that for the early part of the inspection period there were violations of metals limits by the company. After March 2003 Dexter eliminated the violations due to a change in treatment procedures. The inspection report discussed the fact that the City was submitting the monthly operating reports for Dexter after the required due date. The City conducts all compliance monitoring at Dexter and submits the samples to an outside laboratory for testing. The City attributed the delays in monthly operation report submittals to the time it takes to receive test results back from the University Hygienic Laboratory for Dexter samples. The inspection report discussed several alternatives for correcting this deficiency.

7. On September 20, 2005 Field Office No. 6 staff inspected Dexter's pretreatment operations. For the October 2003 through July 2005 review period, there were four nickel, five chromium, and 12 zinc violations as well as one flow exceedance. A chromium violation tested at 40 mg/L, greatly exceeding the permit limit. The October 31, 2005 Notice of Violation letter sent with the report informed Dexter that the exceedances were in violation of the treatment agreement with the City and subrule 567 IAC 62.1(6). The Notice of Violation letter and the inspection report noted that Dexter's monthly operating reports were still not being submitted timely, in violation of subrule 567 IAC 63.7(455B).

8. From August 1, 2005 through August 31, 2006 additional violations of the treatment agreement limits were reported from Dexter. There were violations of the average and maximum concentration limits for chromium for August and September 2005. Daily maximum concentration zinc violations in April and May 2006 were reported. However, the test results for April and May 2006 received from Test America analyses varied from test results received from split samples sent to a second lab. Split samples were tested by two separate laboratories, Test America and the University Hygienic Laboratory (UHL). There was a substantial discrepancy between the two sets of results for zinc. The discrepancy appeared to be due to sodium and boron contaminants in Dexter's wastewater samples and the particular EPA approved test method used. The EPA approved test used by Test America is more prone to matrix interference from inorganic chemicals such as sodium and boron in the industrial wastewater samples. It appears that the high levels of sodium and boron in the Dexter samples may have interfered with the zinc analysis for April and May 2006 done by Test America.

9. A district court consent order was entered into on October 25, 1991 by the Department, the City, and Dexter due to NPDES permit limit violations by the City and violations of treatment agreement limits by Dexter.

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**IV. CONCLUSIONS OF LAW**

The parties agree, for the purposes of settlement and for this action only, that the following Conclusions of Law are applicable to this matter:

1. Iowa Code section 455B.175(1) provides in part: If there is substantial evidence that any person has violated or is violating any provision of this division or chapter 459, subchapter III, or of any rule established or permit issued pursuant thereto; then:

1. The director may issue an order directing the person to desist in the practice which constitutes the violation or to take such corrective action as may be necessary to ensure that the violation will cease.

2. Iowa Code section 455B.186 prohibits the discharge of pollutants into waters of the state, except for adequately treated pollutants discharged pursuant to a permit. Iowa Code section 455B.183 prohibits the operation of a wastewater disposal system without a permit from the Department.

3. Iowa Code section 455B.173 authorizes and requires the Environmental Protection Commission to promulgate rules relating to the operation of waste disposal systems. The Commission has done so at 567 IAC chapters 60- 64. Subrule 567 IAC 64.3(1) prohibits the operation of a waste disposal system without or contrary to the terms of a permit. Subrule 567 IAC 64.7 specifies the conditions that are to be included in a permit.

4. Rule 567 IAC 62.4(455B) adopts by reference federal regulations for pretreatment. Subrule 567 IAC 62.4(33) adopts 40 CFR Part 433, the federal regulation for the metal finishing point source category. Dexter and the City entered into a treatment agreement incorporating the limits required by this subrule. These metals limits were incorporated into the City's NPDES permit. Dexter has violated subrule 567 IAC 62.4(33) and the federal categorical standards by exceeding various metals limits in the treatment agreement and the City's NPDES permit, as detailed in the Statement of Facts.

**V. ORDER**

1. THEREFORE, the Department hereby orders and Dexter consents to comply with the current treatment agreement with the City.

2. An administrative penalty of \$10,000.00 is assessed. The penalty shall be paid to the Department within sixty days of Dexter's receipt of this order executed by the Department. In lieu of payment of \$7,500.00 of the administrative penalty amount, Dexter may elect to perform a supplemental environmental project (SEP) as set forth below. If Dexter elects to perform the SEP, then it shall pay the remainder of the administrative penalty, \$2,500.00, to the Department within sixty days of Dexter's receipt of the order executed by the Department.

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The following SEP is proposed by Dexter. Dexter proposes to add a new pretreatment system from Henkel Corporation. This system will replace the existing metals based water treatment system with a system that does not use chromium, zinc, or phosphates. The new system is referred to as Bonderite NT-1. Bonderite NT-1 is a phosphate free reactive conversion coating with no BODs or CODs especially formulated for use in the treatment of steel, zinc, and aluminum surfaces. All treatment and piping equipment will be cleaned and portions will be replaced with stainless steel. Bonderite NT-1 contains no regulated heavy metals and is free of all organic components. All rinse stages will counter flow back upstream to help conserve water and keep the entire water pretreatment system cleaner (lower conductivity) prior to sending the water to the drain. The new process will assist with environmental sustainability through use of a lower water temperature and the recycling of water through the rinse stages. The wastewater, monitored by a fluoride stable pH meter, will undergo pH adjustment before discharge to the City's WWTF. Two recently purchased tanks will be used for pH adjustment and the need for wastewater pretreatment with sulfuric acid and sodium bisulfite will be eliminated. It is estimated that the cost of this new system will be approximately \$36,000.00.

If the SEP option is elected, the SEP is required to be completed by April 30, 2008. Documentation of completion of the SEP and the payment of the SEP amount toward the project is required to be furnished to Terry Jones, Iowa Department of Natural Resources, Field Office No. 6, and to Diana Hansen, Iowa Department of Natural Resources, within 30 days of completion of the project. Upon notification of the completion of the SEP, Field Office No. 6 will conduct a site visit to confirm completion of the project.

**VI. PENALTY**

1. Iowa Code section 455B.191 authorizes the assessment of civil penalties of up to \$5,000.00 per day of violation for the violations involved in this matter.
2. Iowa Code section 455B.109 authorizes the Environmental Protection Commission to establish by rule a schedule of civil penalties up to \$10,000.00 that may be assessed administratively. The Commission has adopted this schedule with procedures and criteria for assessment of penalties in 567 IAC chapter 10. Pursuant to these rules, the Department has determined that the most effective and efficient means of addressing the above-cited violations is the issuance of an order with an administrative penalty. The administrative penalty assessed by this order is determined as follows:

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**a. Economic Benefit.** The violations of the treatment agreement limits by Dexter could have been avoided by upgrading the wastewater pretreatment system at Dexter. Although Dexter has taken some steps to correct deficiencies over the years, including hiring a professional engineer in 2005, the steps have not been adequate to correct all violations of the treatment agreement limits. By not hiring a professional engineer earlier and not upgrading the pretreatment system, Dexter has saved a considerable amount of money. Continued operation without upgrading the pretreatment systems would save even more money. The Department estimates that at least \$5,000.00 has been saved by the company due to not hiring an engineer earlier and by not upgrading the pretreatment system. The amount of \$5,000.00 is assessed for this factor.

**b. Gravity of the Violation.** One of the factors to be considered in determining the gravity of a violation is the amount of penalty authorized by the Iowa Code for the type of violations. As indicated above, substantial civil and criminal sanctions are authorized by statute. Despite the high penalties authorized, the Department has decided to handle the violations administratively at this time, as the most equitable and efficient means of resolving the matter. Maintaining compliance with water pollution laws, including pretreatment requirements, is a major program priority of the federal and state pollution control agencies.

The Department recognizes that the City's effluent from its WWTF has routinely met the NPDES permit effluent limit requirements and that there has been no apparent environmental impact to the receiving stream. Although the City's biosolids would contain the metals from the Dexter discharge, the City's sludge application data indicates compliance with sludge limitations. Despite the fact that there has been no documented harm to the receiving stream or by land application of sludge, Dexter's failure to meet its limits in its treatment agreement with the City is a serious compliance matter. The amount of \$2,500.00 is assessed for this factor due to multiple violations.

**c. Culpability.** Dexter has been advised of its obligation to meet its treatment agreement limits by inspection reports and cover letters from 2001 through 2005. Despite the Department's efforts to gain compliance with the treatment agreement limits, Dexter continued to violate its treatment agreement limits. This is aggravated by the fact that Dexter and the City entered into an Iowa district court consent order with the Department in 1991 concerning, in part, similar pretreatment violations by Dexter. The amount of \$2,500.00 is assessed for this factor due to multiple violations.

## **VII. WAIVER OF APPEAL RIGHTS**

Iowa Code section 455B.175, and 561 IAC 7.5(1), as adopted by reference by 567 IAC chapter 7, authorize a written notice of appeal to the Environmental Protection Commission. This order is entered into knowingly by and with the consent of Dexter. By signature to this order, all rights to appeal this order are waived.

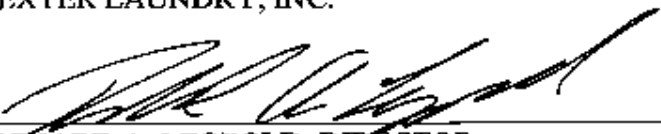
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**VIII. NONCOMPLIANCE**

Compliance with Section "V. Order" of this order constitutes full satisfaction of all requirements pertaining to the violations described in this order. Failure to comply with this order may result in the imposition of administrative penalties pursuant to an administrative order or referral to the Attorney General to obtain injunctive relief and civil penalties pursuant to Iowa Code section 455B.191.

  
FRANK D. FRITZ, CHIEF FINANCIAL OFFICER,  
SECRETARY AND TREASURER  
DEXTER LAUNDRY, INC.

Dated this 11 day of  
March, 2008

  
RICHARD A. LEOPOLD, DIRECTOR  
IOWA DEPARTMENT OF NATURAL RESOURCES

Dated this 7 day of  
April, 2008

Dexter Laundry, Inc.- Central Office Treatment Agreement File for The Dexter Company and City of Fairfield, City of Fairfield Sewage File- Facility No 6-51-31-0-01, Terry Jones- Field Office No. 6, Diana L. Hansen- Legal Services, U.S.E.P.A. Region VII, I.C.4.